



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: U.S. Patent Application of )

Applicants: JOSEPH J. TEBBE )

Serial No.: 09/198,240 )

Filed: 11/23/98 )

For: CLAMPING JAW DEVICE )

File: 9802T )

Group Art Unit: 3722

Examiner: Bishop, S.

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OFFICE OF PETITIONS

DAC  
#7/dpm  
1/12/01  
Ret to  
Withdraw  
Aband.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON  
FAILURE TO RECEIVE OFFICE ACTION

Honorable Commissioner of Patents and Trademarks  
U.S. Patent and Trademark Office  
Washington, D. C. 20231

Sir:

Applicant respectfully petitions that the holding of abandonment on the above-identified application be withdrawn because Applicant, through his attorney, never received the Notice of Allowance or Base Issue Fee documents and therefore had no opportunity to respond to the action required by these Official documents (Notice of Allowance and Issue Fee Transmittal). Applicant's attorney, Herman H. Bains, in the accompanying Declaration, has set forth facts and explanations believed to adequately support grounds for withdrawal of the holding of abandonment. Applicant therefore respectfully requests that the Holding of Abandonment be withdrawn.

Respectfully submitted

JOSEPH J. TEBBE

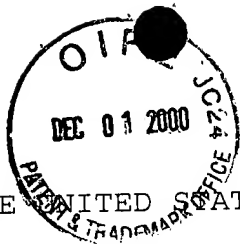
By Herman H. Bains

Herman H. Bains, Reg. No. 19,330  
6101 Tracy Avenue  
Minneapolis, Minnesota 55436  
Telephone: 952-929-9362  
Fax: 952-929-9362

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I hereby certify that this correspondence is being deposited  
with the U.S. Postal Service as first class mail in an  
envelope addressed to: Commissioner of Patents and  
Trademarks, Box DAC, Washington, D.C. 20231 on  
November 29, 2000 Herman H. Bains

Herman H. Bains November 29, 2000  
Name of person mailing Herman H. Bains



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: U.S. Patent Application of )

Applicants: JOSEPH J. TEBBE )

Serial No.: 09/198,240 )

Filed: 11/23/98 ) Group Art Unit: 3722

For: CLAMPING JAW DEVICE ) Examiner: Bishop, S.

File: 9802T )

DECLARATION OF HERMAN H. BAINS

Honorable Commissioner of Patents and Trademarks  
U.S. Patent and Trademark Office  
Washington, D. C. 20231

Sir:

Declarant was advised yesterday (November 28, 2000) that the above-identified application had been abandoned for failure to timely pay the base issue fee. This information (abandonment) was provided by personnel in Group 3720 and Examiner Steven C. Bishop of Art Unit 3722. Declarant was further advised by the Office of Petitions that he (Declarant) was not the attorney of record based on the computer records at the Patent Office.

Declarant states that he is attorney of record in the above-identified patent application and further states that he did not receive the Notice of Allowance or Issue Fee Transmittal forms. As evidence showing Declarant as attorney of record in the above-identified application, applicant has enclosed herewith as Ex 1 a copy of the "Filing Receipt". The application file should also contain

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a Declaration designating Declarant as Attorney of Record in this application.

Declarant received an Official Action dated 10-06-99 on the above-identified application and accordingly responded to this Office Action with an amendment dated 01-06-00. A self-addressed postcard showed the action was received 10-12-00 by the Patent Office.

Declarant received no further correspondence from the Patent Office on this application. Declarant has not withdrawn as attorney of record and applicant has not revoked or withdrawn the Power of Attorney from Declarant. Since Declarant believes himself to be the properly designated attorney of record, Declarant respectfully requests an explanation of why the computer records at the Patent Office show otherwise. If these computer records are indeed in error, the records should be corrected and Declarant advised accordingly.

In Declarant's practice, all correspondence or Actions from the Patent Office are noted on the face or front of the application folder. This practice was followed with respect to the above-identified application. Declarant also keeps and maintains a docket book system which lists the action required to be taken (amendment response, mtc fee payment, issue fee payment, etc.) and the date the action must be completed and mailed. The docket book contains pages which

are arranged and captioned sequentially as months and years. Each monthly sheet lists the days of the month vertically along the left margin of the sheet, and client and client file is identified in the central portion of the sheet adjacent the appropriate date. The date and action to be taken are listed on the right side of the sheet adjacent the appropriate client and file. Several entries are made for each action to be taken and these entries are made in months prior to the final date of the action to be taken.

For example, if an action is to be completed in June, entries are made in April and May. At least three periodic letters and/or phone calls are sent out or made to the client seeking instructions with respect to the required action.

The docket book is reviewed at least one month prior to the month in which an action is to be taken. For example, all matters to be taken in March are reviewed at the beginning of February. Further, matters requiring action are also written on a desk calendar noting the date the action must be completed and mailed. At least two entries are made on the desk calendar; namely the final date an action must be taken, and a date preceding the final date. Finally, the various files of clients are reviewed periodically and the content and face of the files are examined. It was this review of the above identified patent

application which provoked the phone call leading to the discovery that the application had become abandoned.

Declarant has carefully and faithfully followed the practice outlined hereinabove for the past several years including the year 2000. Declarant did, in fact, respond to the last Official Action on the above-identified application which apparently led to the allowance of the application. However, Declarant never received the Notice of Allowance and Issue Fee Transmittal on this application.

Declarant has never received any document (Notice of Abandonment) declaring the application abandoned.

Declarant believes that the only appropriate proposed response on behalf of Applicant is this Petition To Withdraw the Holding of Abandonment. In view of the facts and explanation outlined above, Declarant respectfully request that the Holding of Abandonment be withdrawn.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements, were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 101 of Title 18 of the United States Code and that such willful false

statements may jeopardize the validity of the above-identified application or any patent issued thereon.

Respectfully submitted

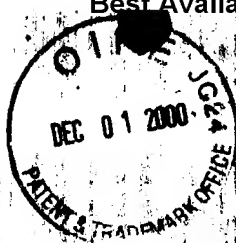
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Box DAC, Washington D.C. 20231 on November 29, 2000. Herman H. Bains

Herman H. Bains November 29, 2000.  
Name of person mailing - Herman H. Bains -

PTO-103X  
(Rev. 8-95)

## FILING RECEIPT



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/198,240	11/23/98	3723	\$380.00		3	9	2

HERMAN H BAINS  
608 SOUTH 2ND AVENUE SUITE 1031  
MINNEAPOLIS MN 55402

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the Filing Receipt with the changes noted thereon.

Applicant(s)

JOSEPH JOHN TEBBE, WHITE BEAR LAKE, MN.

FOREIGN FILING LICENSE GRANTED 12/10/98  
TITLE  
CLAMPING JAW DEVICE

\* SMALL ENTITY \*

PRELIMINARY CLASS: 269

DEC 18 1998

10-3700 MAIL ROOM

DEC - 6 2000

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DATA ENTRY BY: SASFAI, DAVID J.

TEAM: 03 DATE: 12/10/98